

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST
AT HUNTINGTON DIVISION**

IN RE:

CASE NO. 10-30145

DAVID EATON LAKE
SANDRA RENEE LAKE

CHAPTER 13

Debtors

JUDGE RONALD G. PEARSON

MOTION FOR DISBURSEMENT OF UNCLAIMED FUNDS

Now comes Movant, DBI/ASG Coinvestor Fund III, LLC, by and through counsel, and respectfully requests this Court to Disburse Unclaimed Funds.

Movant hereby provides the following information:

1. Name: DBI/ASG Coinvestor Fund III, LLC
2. Address: 2002 Brazos Court, Westlake, TX 76262
3. Telephone #: 844-715-7647
4. History of Creditor: The then current creditor / holder of this claim, TAAC Asset Acquisition & Management filed a proof of claim through its servicer, Wingspan, on May 28, 2010, Claim #14. Thereafter, the note and deed of trust was assigned by TAAC Asset Acquisition & Management to Roundpoint Mortgage Servicing Corporation ("Roundpoint") as evidenced by the Lost Assignment Affidavit attached hereto as Exhibit A. Roundpoint then assigned the note and deed of trust to Movant, DBI/ASG Coinvestor Fund III, LLC, as evidenced by the Assignment attached hereto as Exhibit B.
5. The Movant is the current creditor as evidenced by the Transfer of Claim filed on April 22, 2015 [DE #233] and the Assignment attached hereto as Exhibit B.
6. Movant is the proper party entitled to the funds.
7. Chapter 13 Trustee filed a Transmittal of Unclaimed Funds on July 1, 2014, doc. 176.

Depositing funds in the amount of \$19,196.32 with the Clerk's office.

8. The unclaimed funds payable to Movant are less than the amount of its claim and the outstanding indebtedness owed on the Note, therefore, Movant is entitled to the full amount of the unclaimed funds.
9. In further support of its Motion, Movant references the Affidavit of Matthew Puchferran attached hereto as Exhibit C.

WHEREFORE, Movant requests that funds in the amount of \$19,196.32 be disbursed to Movant.

Respectfully submitted,

/s/ Christopher Dawson

Christopher Dawson, Esq. (10633)
Attorney for Movant
Reisenfeld & Associates, LPA LLC
3962 Red Bank Road
Cincinnati, OH 45227
voice: (513) 322-7000
facsimile: (513) 322-7099
e-mail: wvbk@rslegal.com

NOTICE OF MOTION

DBI/ASG Coinvestor Fund III, LLC has filed papers with the Court to Disburse Funds from Unclaimed Funds.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have on in this Bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion/objection**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to US Bankruptcy Court, Sidney L. Christie Federal Building, 845 Fifth Avenue, Room 336, Huntington, West Virginia 25701 OR your attorney must file a response using the court's ECF System.

The Court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Christopher Dawson
Reisenfeld & Associates, LPA LLC
3962 Red Bank Road
Cincinnati, OH 45227

Brian Richard Blickenstaff
Turner & Johns, PLLC
216 Brooks St, Suite 200
Charleston, WV 25301

Helen M. Morris
Office of the Chapter 13 Trustee
P. O. Box 8535
South Charleston, WV 25303

U.S. Trustee
Debra A. Wertman
300 Virginia St., E.
Suite 2025
Charleston, WV 25301

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion/objection and may enter an order granting that relief without further hearing or notice.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion has been served this 29th day of April, 2015, by regular U.S. Mail, postage prepaid, or by electronic e-file upon the following:

Electronically via ECF Mail:

Blickenstaff, Brian R., Debtor`s Counsel
bblickenstaff@turnerjohns.com

Helen M. Morris, Bankruptcy Trustee
ch13info@wvtrustee.org

U.S. Trustee
(Registered Address)@usdoj.gov

Via Regular U.S. Mail:

David Eaton Lake, Debtor
Sandra Renee Lake, Debtor
303 Harbor Lane
Hurricane, WV 25526

United States Attorney for the Southern District of West Virginia
Huntington Branch
Sydney L. Christie Building
845 Fifth Avenue
Room 209
Huntington, WV 25701

/s/ Christopher Dawson

Christopher Dawson

RECORDING REQUESTED BY:

T.D. Service Company

PREPARED BY AND

WHEN RECORDED RETURN TO:

Jennifer Fuentes (714)543-8372
T.D. Service Company
4000 W. Metropolitan Drive, Suite 400
Orange, CA 92868

Cust #: [REDACTED]

Loan #: [REDACTED]

TDSC #: [REDACTED]



Doc ID: 003558980002 Type: MISC
Recorded: 01/02/2014 at 10:45:48 AM
Fee Amt: \$11.00 Page 1 of 2
Putnam County Clerk
Brian Wood County Clerk

BK **73** PG **502-503**

LOST ASSIGNMENT AFFIDAVIT

COUNTY: Orange

STATE: California

THE UNDERSIGNED being the proper and authorized officer of **Roundpoint Mortgage Servicing Corporation** doing business at 5032 Parkway Plaza Blvd., Charlotte, NC 28217 being first duly sworn states as follows:

THAT **Roundpoint Mortgage Servicing Corporation** the current rightful owner and holder of the Note and Deed of Trust/Mortgage date **12/1/2004** by **Sandra R. Lake, married to David Lake**, Original Mortgagor(s) to **Mortgage Electronic Registration Systems, Inc., as nominee for GMAC Mortgage Corporation, its successors and assigns**, Original Beneficiary and recorded **1/10/2005** as Document Number --- in Book **730**, Page **441**, in the Official Records of **Putnam**, State of **West Virginia**. Said Deed of Trust/Mortgage encumbers the following described real property: **303 Harbor Lane, Hurricane, WV 25526**

SAID Note and Deed of Trust/Mortgage was sold and purportedly assigned to **Roundpoint Mortgage Servicing Corporation**

After a diligent search **Roundpoint Mortgage Servicing Corporation** has been unable to locate any of the **Asset Acquisition and Management, LLC** agents or officers.

THAT required assignment from **Asset Acquisition and Management, LLC** to **Roundpoint Mortgage Servicing Corporation** was never recorded. THAT said **Roundpoint Mortgage Servicing Corporation** is recording this Affidavit for the purpose of claiming its ownership of the Note and Deed of Trust/Mortgage.

EXHIBIT A

Cust #: [REDACTED]

Loan #: [REDACTED]

TDSC #: [REDACTED]



Date: DEC 19 2013

Roundpoint Mortgage Servicing Corporation

By:

(Name, Title): **Craig Davenport, Assistant Vice President**

Witness:

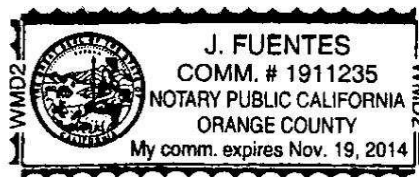
M. Mccollum

State of California
County of Orange

Subscribed and sworn to (or affirmed) before me on DEC 19 2013, by Craig Davenport as Assistant Vice President proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Witness my hand and official seal.

(Notary Name): J. Fuentes
My commission expires: Nov. 19, 2014



STATE OF WEST VIRGINIA, Putnam
County Commission Clerk's Office
01/02/2014. The foregoing Miscellaneous
together with the certificate of its
acknowledgment, was this day presented
in said office and admitted to record

Teste: Clerk

Recording Requested By:
T.D. SERVICE COMPANY

And When Recorded Mail To:
T.D. Service Company
4000 W Metropolitan Dr Ste 400
Orange, CA 92868



Doc ID: 003687790001 Type: ASSIGN
Recorded: 10/08/2014 at 01:54:29 PM
Fee Amt: \$11.00 Page 1 of 1
Putnam County Clerk
Brian Wood County Clerk

BK 55 PG 988

Customer#: [REDACTED]

Service#: [REDACTED]

Loan#: [REDACTED]



Space above for Recorder's use

ASSIGNMENT OF MORTGAGE

FOR VALUE RECEIVED, ROUNDPOINT MORTGAGE SERVICING CORPORATION, 5032 PARKWAY PLAZA BLVD., CHARLOTTE, NC 28217-0000, hereby assign and transfer to DBI / ASG COINVESTOR FUND III, LLC, 4144 NORTH CENTRAL EXPRESSWAY SUITE 900, DALLAS, TX 75204-0000, all its right, title and interest in and to said Mortgage in the amount of \$25,000.00, recorded in the State of WEST VIRGINIA, County of PUTNAM Official Records, dated DECEMBER 01, 2004 recorded on JANUARY 10, 2005, as Instrument No. —, in Book No. 730, at Page No. 441.

Executed by: SANDRA R. LAKE, MARRIED TO DAVID LAKE (Original Mortgagor).

Original Mortgagee: MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR GMAC MORTGAGE CORPORATION, ITS SUCCESSORS AND ASSIGNS.

Date: OCT 01 2014

ROUNDPOINT MORTGAGE SERVICING CORPORATION

By:

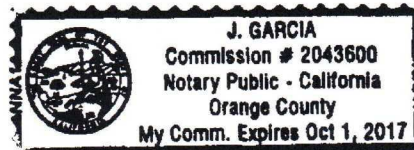
Craig Davenport, Assistant Vice President

State of CALIFORNIA }
County of ORANGE } ss.

On OCT 01 2014, before me, J. Garcia, a Notary Public, personally appeared Craig Davenport, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.

(Notary Name): J. Garcia



PREPARED BY: T.D. Service Company, 4000 W Metropolitan Dr Ste 400, Orange, CA 92868, (714) 543-8372, JOYCE A GARCIA

EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST
AT HUNTINGTON DIVISION

IN RE:

CASE NO. 10-30145

DAVID EATON LAKE
SANDRA RENEE LAKE

CHAPTER 13

Debtors

JUDGE RONALD G. PEARSON

AFFIDAVIT IN SUPPORT OF MOTION FOR DISBURSEMENT
OF UNCLAIMED FUNDS

STATE OF

Florida

COUNTY OF

Palm Beach

ss:

COMES NOW the Affiant, Matthew Puchferran, and states and deposes as follows:

1. I am over the age of eighteen and have personal knowledge of the information contained herein based on my review of the business records of DBI/ASG Coinvestor Fund III, LLC ("Coinvestor Fund").
2. I am currently employed by Coinvestor Fund as Vice President.
3. In the scope and course of my employment, I have access to Coinvestor Fund's business records of accounts it holds, including the Debtors' account herein.
4. Based on my review of the account, the Note and Deed of Trust were assigned to Coinvestor Fund by Roundpoint Mortgage Servicing Corporation "Roundpoint" on or about August 2014, as evidenced by the Assignment of Deed of Trust dated October 1, 2014, and recorded on October 8, 2014, in the Office of the Putnam County Clerk at Book 55, Page 988.
5. Roundpoint was assigned the Note and Deed of Trust by the creditor set forth in the

EXHIBIT C

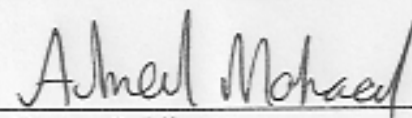
Proof of Claim, TAAC Asset Acquisition & Management, as evidenced by a Lost Assignment Affidavit dated December 19, 2013, and appearing of record in Miscellaneous Book 73, Page 502, in the Office of the Putnam County Clerk.

6. Since the Assignment of the Note and Deed of Trust, Coinvestor Fund has not assigned or transferred the Note and/or Deed of Trust and still holds the Note which was endorsed in blank by the original holder.
7. Since it took assignment of the Note and Deed of Trust, the account has been serviced by multiple servicers, including the entity who filed the original proof of claim, Wingspan.
8. Coinvestor Fund has no information as to when the address for Wingspan changed after it filed the Proof of Claim or why a change of address was never filed to update the record in this case.
9. Based on my review of the account, the amount currently owed on this account exceeds the amount of unclaimed funds held by the Court.
10. I am not aware of any other party who may have an interest or claim to the unclaimed funds and Coinvestor Fund is the proper party to whom the funds should be paid.

Further the Affiant sayeth naught.


Affiant, Matthew Puchferran

Sworn to and subscribed before me, in my presence, this 29th day of April, 2015.


Notary Public

My Commission Expires: Jan 5, 2018

